

## **Sec. 8-101. Rapid entry systems.**

- (a) *Purpose.* The purpose of this section is to provide prompt entrance to both commercial and residential structures within the town of New Britain to fire and emergency personnel by requiring the installation of a rapid entry system in new or renovated commercial structures and residential structures exceeding six (6) living units.
- (b) *Definitions.*
  - (1) A rapid entry system consists of a heavy duty key vault the specifications of which shall be approved by the fire department,
  - (2) Renovations shall mean updating or repair of an existing commercial or residential building exceeding (6) six living units or conversion of an existing structure for commercial purposes requiring the issuance of a building permit and the cost of said work shall exceed five thousand dollars (\$5,000.00).
- (c) *[Issuance of certificates of occupancy.]* The director of licenses, permits and inspections for a new or renovated commercial or residential structure, shall issue no certificate of occupancy unless a rapid entry system has been installed within the specifications outlined by the fire department. Specifications shall include the type and location of rapid access system. Keys to said system shall be maintained exclusively by the fire department.
- (d) *[Maintenance of system.]* Upon installation of such rapid entry system, the building owner shall, at his/her expense maintain all components thereof in good working order, and make repair or replacement thereof within thirty (30) days of receipt of written notice to repair or replace by the fire department.
- (e) *Penalty.* Any owner violating the provisions of this section shall be fined twenty-five dollars (\$25.00) for each occurrence. Each day of violation shall be considered a separate offense.

(No. 26896-1, 3-27-02)

## **Chapter 9 FLOOD AND EROSION CONTROL\***

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**\*Cross references:** Buildings and building regulations, Ch. 7; fire prevention and protection, Ch. 8 health, Ch. 12; housing, Ch. 13; planning, Ch. 19; inland wetlands and watercourses, § 19-35; streets, sidewalks and public places, Ch. 21; utilities, Ch. 23.

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Art. I. In General, §§ 9-1--9-20

Art. II. Board, §§ 9-21--9-40

Art. III. Flood Damage Prevention, §§ 9-41--9-50

## **ARTICLE I. IN GENERAL**

Secs. 9-1--9-20. Reserved.

## **ARTICLE II. BOARD\***

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**\*Cross references:** City boards, commissions, committees and authorities generally, § 2-126 et seq.

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### **Sec. 9-21. State law adopted by reference; definition.**

Sections 25-84 to 25-94 inclusive, of the general statutes, revision of 1958, are hereby adopted.

(Code 1970, § 2-209)

**State law references:** Authority to adopt, G.S. § 25-84.

### **Sec. 9-22. Creation and composition.**

A flood and erosion control board is hereby constituted as provided by law. The board shall consist of five (5) members of the board of public works, not more than three (3) of whom shall belong to the same political party.

(Code 1970, § 2-210; Ord. of 4-95; Ord. of 7-01)

### **Sec. 9-23. Compensation and expenses.**

Members of the board shall serve without compensation, but their expenses and disbursements when approved by the council, shall be paid by the city.

(Code 1970, § 2-211)

### **Sec. 9-24. Appointments and vacancies.**

Appointment to the board created by this article shall be made by the mayor and the term of each member of the board shall coincide with his term as a member of the board of public works.

Whenever a vacancy shall occur in the board, the mayor shall fill such vacancy for the unexpired term.

(Code 1970, § 2-212)

### **Sec. 9-25. Powers and duties.**

The flood and erosion control board shall have all those powers, duties, responsibilities and obligations as set forth in sections 25-84 to 25-94 inclusive, of the general statutes, revision of 1958.

(Code 1970, § 2-213)

**Sec. 9-26. Conduct of meetings.**

The board shall adopt rules and regulations for the conduct of its proceedings.

(Code 1970, § 2-214)

**Sec. 9-27. Time of meetings.**

Meetings shall be held at the call of the chairman, and at such other times as the board may determine.

(Code 1970, § 2-215)

**Sec. 9-28. Powers of chairman of board.**

The chairman of the board, or in his absence, an acting chairman, shall have the power to appoint committees, administer oaths, and compel the attendance of witnesses.

(Code 1970, § 2-216)

**Sec. 9-29. Meeting to be public.**

All meetings of the board shall be open to the public.

(Code 1970, § 2-217)

**Sec. 9-30. Minutes of board meeting.**

Minutes shall be kept of all proceedings and all examinations and official actions shall be recorded therein. The minutes shall show the vote of each member on each question; or, if any member shall be absent or failing to vote, shall indicate the fact. Minutes shall be open for inspection as a public record.

(Code 1970, § 2-218)

Secs. 9-31--9-40. Reserved.

**ARTICLE III. FLOOD DAMAGE PREVENTION****Sec. 9-41. Statutory authorization, findings of fact, purpose and objectives.**

- (a) *Statutory authorization.* The Legislature of the State of Connecticut has, in section 7-148(c)(7) of the General Statutes, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the common council of the City of New Britain, Connecticut, does ordain as follows:
- (b) *Findings of fact:*
  - (1) The flood hazard areas of New Britain are subject to periodic inundation which

may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.
- (c) *Statement of purpose.* It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
- (1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
  - (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
  - (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
  - (4) Control filling, grading, dredging and other development which may increase erosion or flood damage; and
  - (5) Prevent or regulate the construction of obstructions which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- (d) *Objectives.* The objectives of this article are:
- (1) To protect human life and health;
  - (2) To minimize expenditure of public money for costly flood-control projects;
  - (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  - (4) To minimize prolonged business interruptions;
  - (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
  - (6) To help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize flood damage; and
  - (7) To make information available which will aid potential property buyers in determining whether property is in a flood zone.

(Ord. of 1-95; Ord. of 2-4-98)

## **Sec. 9-42. Definitions.**

- (a) *Definition and usage.* Unless specifically defined below, words or phrases used in this

article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

(b) *Definitions of specific words and terms:*

- (1) *Accessory building or structure:* A building or structure in addition to the principal building which is clearly subordinate to and incidental to and located on the same lot or parcel as the principal building or structure.
- (2) *Addition (to an existing building):* Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.
- (3) *Appeal:* A request for a review of the city engineer's interpretation of any provision of this article or a request for a variance from the requirements of this article.
- (4) *Area of special flood hazard:* See special flood hazard area.
- (5) *Base flood:* The flood having a one per cent chance of being equaled or exceeded in any given year.
- (6) *Basement:* Any area of the building having its floor subgrade (below ground level) on all sides.
- (7) *Breakaway wall:* A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.
- (8) *Building:* Any structure built for support, shelter, or enclosure for any occupancy or storage.
- (9) *Building permit:* The permit issued by the building department for erection, construction, alteration or expansion of any building or structure in the City of New Britain. Such permits include building, fence, electrical, plumbing, signs, heating, air conditioning, heating and ventilation, and foundations permits.
- (10) *Development:* Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials.
- (11) *Elevated building:* A nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls as allowed under applicable standards.
- (12) *Flood or flooding:* A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of inland or tidal water;
  - b. The unusual and rapid accumulation or runoff of surface waters from any

source.

- (13) *Flood boundary and floodway map*: An official map of New Britain on which the Federal Emergency Management Agency (FEMA) has delineated the boundaries of the floodway.
- (14) *Flood insurance rate map (FIRM)*: An official map of New Britain, on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas and the risk premium zones applicable to the community. FIRMs published after January, 1990, may also show the boundaries of the floodway.
- (15) *Flood insurance study*: The official report by the Federal Emergency Management Agency (FEMA) which contains flood profiles, the water surface elevation of the base flood, and other flood data.
- (16) *Floodplain*: See Special Flood Hazard Area.
- (17) *Floodplain management permit*: A permit issued and required by the City of New Britain which guides any development proposed to take place within special flood hazard areas.
- (18) *Floodway*: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- (19) *Floor*: The top surface of the materials or structure(s) forming the bottom-most horizontal plane of any enclosed room, space or area in a building (including basement); i.e., top of slab in concrete slab construction or top of wood flooring in wood-frame construction. This term does not include the floor of a garage used solely for parking vehicles or to the limited storage of maintenance equipment used solely in connection with the premises.
- (20) *Functionally dependent facility*: A facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.
- (21) *Highest adjacent grade*: The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.
- (22) *Lowest floor*: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building's lowest floor, provided that such an area fully meets the requirements of subsection 9-45(c)(2).
- (23) *Manufactured home (mobile home or trailer)*: A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. This term also includes recreational vehicles and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to be improved property.

- (24) *Mean sea level*: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.
- (25) *National Geodetic Vertical Datum (NGVD)*: As corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the floodplain.
- (26) *New construction*: Structures for which the "start of construction" commenced on or after the effective date of this article, May 21, 1981, and includes any subsequent improvements to such structures.
- (27) *Principal structure*: The main or primary structure on a property; the building or other structure which contains or constitutes the chief or principal use on the property.
- (28) *Recreational vehicle*: A vehicle which is:
- a. Built on a single chassis;
  - b. Measures four hundred (400) square feet or less at the largest horizontal projections;
  - c. Designed to be self-propelled or permanently towable; and
  - d. Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping travel or seasonal use.
- (29) *Special flood hazard area*: The area within New Britain subject to one per cent or greater chance of flooding in any given year, as identified by New Britain's FIRM. In New Britain, this includes, specifically, areas designated as zones A, AE, A1-30.
- (30) *Start of construction*: Includes substantial improvement, and means the date that the building permit was issued, provided the actual start of construction, repair, reconstruction or improvement was within ninety (90) days of the building permit date. (Should the permittee fail to begin work within this time frame, a new permit shall be required). The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
- (31) *Structure*: A walled and roofed building that is principally above ground, a gas or liquid storage tank, or any other man-made facilities or structures. For the purpose of this article, each detached structure on a property shall be considered individually, a separate structure from any other structure on the property.
- (32) *Substantial damage*: Damage of any origin sustained by a structure whereby the

cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) per cent of the market value of the structure before the damage occurred.

- (33) *Substantial improvement*: Any combination of repairs, reconstruction, alteration, or improvements to a structure, taking place during the life of a structure, in which the cumulative cost equals or exceeds fifty (50) per cent of the market value of the structure. The market value of the structure should be:
  - a. The appraised value of the structure, using the cost approach to value method, prior to the start of the initial repair or improvement.
  - b. In the case of damage, the value of the structure prior to the damage occurring.
  - c. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building begins, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.
- (34) *Subdivision*: The division of a tract or parcel of land into three (3) or more parts or lots for the purpose of sale or building development, expressly excluding development for municipal, conservation or agricultural uses, and includes resubdivision.
- (35) *Variance*: A grant of relief from the requirements of this article which permits construction in a manner otherwise prohibited by this article where specific enforcement would result in unnecessary hardship. Such hardship shall be based on the unusual physical characteristics of the property in question which are not shared by adjacent parcels; hardship shall not be based on the structure, nor on economic or personal hardships.
- (36) *Water surface elevation*: The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Ord. of 1-95; Ord. of 2-4-98; No. 26824-1, 2-27-02)

#### **Sec. 9-43. General provisions.**

- (a) *Lands to which this article applies*. This article shall apply to all special flood hazard areas within the jurisdiction of City of New Britain.
- (b) *Basis for establishing the special flood hazard areas*. Special flood hazard areas are those areas identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of New Britain", dated February 2, 2002, with accompanying flood insurance rate maps and flood boundary-floodway maps dated February 2, 2002, and any revisions thereto. The flood insurance study, flood insurance rate map and flood boundary-floodway maps are hereby adopted by reference and declared to be a part of this article. These materials



are on file at the office of Public Works, City Hall, 27 West Main Street, New Britain, Connecticut.

- (c) *Establishment of floodplain management permit.* A floodplain management permit shall be required in conformance with the provisions of this article prior to the beginning of any development activities on any property within or containing any areas designated as special flood hazard areas.
  - (1) *Permit expiration.* Permits issued under this article shall expire if the permitted activity does not begin within ninety (90) days of the permit approval date.
- (d) *Compliance.* No structure or land within a special flood hazard area shall hereafter be located, developed, constructed, extended, converted, modified, or structurally altered without full compliance with the terms of this article and other applicable regulations.
- (e) *Abrogation and greater restrictions.* This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (f) *Interpretation.* In the interpretation and application of this article all provisions shall be:
  - (1) Considered as minimum requirements;
  - (2) Liberally construed in favor of the governing body; and
  - (3) Deemed neither to limit nor repeal any other powers granted under state statutes.
- (g) *Warning and disclaimer of liability.* The degree of flood protection required by this article is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This article does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of City of New Britain or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder. The City of New Britain, its officers and employees shall assume no liability for another persons reliance on any maps, data, or information provided by the city. Notwithstanding the preceding disclaimer, the city shall assume normal responsibilities in indemnifying its public officials and citizen board members for "good faith" decisions made on their part in carrying out the duties of their positions.
- (h) *Severability.* If any section, subsection, paragraph, sentence, clause, or phrase of this article should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this article, which shall remain in full force and effect; and to this end the provisions of this article are hereby declared to be severable.

(Ord. of 1-95; Ord. of 2-4-98; No. 26824-1, 2-27-02)

#### **Sec. 9-44. Administration.**

- (a) *Designation of the article administrator.* The city engineer is hereby appointed to administer, implement and enforce the provisions of this article.

- (b) *Certification.* Where required under this article, a registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this article. Such certification must be provided to the city engineer.
- (c) *Permit procedures.* For any development activity on properties which are within or which contain a special flood hazard area, an application for a floodplain management permit shall be made to the city engineer on forms furnished by him or her prior to any development activities. Information which shall be required along with such applications shall include, but is not limited to, five (5) copies of all plans showing property boundaries, existing and proposed conditions, including all buildings and structures, grading, contours, storage of materials, drainage facilities, fences, parking and driveways, and sidewalks. Specifically, the following information is required:
  - (1) *Application stage.* Where applicable, certifications by a registered surveyor, professional engineer or architect are required, and must be provided to the city engineer. The design and methods of construction must be certified to be in accordance with accepted standards of practice, and with the provisions of subsections 9-45(c), (d), and 9-46 of this article. Certifications by registered surveyors, professional engineers or architects are required for all items listed below:
    - a. Elevation in relation to mean sea level and base flood level of the proposed lowest floor (including basement) of all structures;
    - b. Elevation in relation to mean sea level and base flood level to which any nonresidential structure will be floodproofed;
    - c. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development;
    - d. A statement as to whether or not the proposed alterations to an existing structure meets the criteria of the substantial improvement definition;
    - e. A statement as to whether there will be dry access to any part of the structure during the 100-year storm event;
    - f. That the use of floodproofing for nonresidential structures, as required by subsection 9-45(c)(1)b.(ii) of this article, has been met;
    - g. That all provisions governing fully enclosed areas below base flood elevations, as required by section 9-45 of this article, have been met;
    - h. That the floodway standards of subsection 9-45(c)(3) of this article have been met. (No increase in floodway heights shall be permitted.)
  - (2) *Construction stage.* Upon completion of the applicable portion of construction, the applicant shall provide verification with appropriate certifications by a registered surveyor, professional engineer to the city engineer of the following:
    - a. For structures in Zone A1-30 the elevation of the top of the lowest floor, including basement, in accordance with the standards of subsection 9-45(c)(3)a.
    - b. For nonresidential floodproofed structures the elevation to which the

floodproofing is effective and certified that construction is in conformance with the standards of subsection 9-45(c)(1)b.(i).

- (3) *Compliance.* Deficiencies detected by the review of the lowest floor elevations and/or floodproofing shall be corrected by the permit holder immediately and prior to any further work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.
- (4) *Bond and insurance.* Upon the approval of the application and prior to the issuance of a floodplain management permit, the applicant may be required to post a performance bond to ensure that all filling, grading, construction, relocation or alteration of a watercourse, placing of structures, etc., is done in accordance with the approved development plans and in compliance with the applicable provisions of subsections 9-45(a), (b) and (c).
  - a. The bond amount shall be commensurate to the cost of removing all new fill and materials and restoring the topography of the site to predevelopment conditions and stabilizing the site through appropriate revegetation. Such cost estimate shall be calculated and certified by the applicant's engineer and subject to review and approval by the city engineer.
  - b. The bond shall be posted in the form of a certified check, which shall be executed by the city treasurer's office and deposited into an escrow account, pending satisfactory completion of all development activities.
  - c. Such a bond shall be required in all instances involving development activities taking place within a floodway, per subsection 9-45(c)(3) of this article, activities which alter or relocate a watercourse, and for all activities permitted by variance per section 9-47 of this article.

Additionally, at the discretion of the city engineer, such a bond may also be required in instances where development or filling activities in A zones are projected to increase base flood elevations more than one-half foot, but less than one foot.
- (d) *Duties and responsibilities of the city engineer and other city officials.* In the administration of this article, the duties of the city engineer shall include, but not be limited to:
  - (1) *Application stage:* All applications for building permits shall be reviewed by the city engineer to determine if the proposed activity contains, or is within, a special flood hazard area. Duties of the city engineer shall include:
    - a. Review all floodplain management permit applications to determine whether proposed building sites will be reasonably safe from flooding.
    - b. Review all floodplain management permit applications and permits to assure that the permit requirements of this article have been satisfied.
    - c. Advise permittee that additional federal, state or city permits may be required, and if specific federal, state or city permit requirements are known, require that copies of such permits be provided and maintained

on file with the floodplain management permit. Permits possibly required include, but are not limited to: Water Diversion, Dam Safety, Army Corps of Engineers Sections 401 and 404 and Stream Channel Encroachment Line Permits, as well as local inland/wetlands and watercourses permits. It shall be the responsibility of the permittee to seek and obtain all other necessary permits, approvals, licenses, certificates, etc., as may be required by applicable city, state or federal agencies, prior to conducting any activity regulated under this article. A permit issued pursuant to these regulations does not confer or imply approval of the activity by any other agency of the city, state or federal government.

- d. The city engineer shall inform the conservation commission and director of public works of the submission of an application for a floodplain management permit for any proposed relocation or alteration of any watercourse. No such relocation or alteration is to be permitted unless it is satisfactorily shown that the flood-carrying capacity of the watercourse is not diminished.
- e. The city engineer shall notify adjacent communities and the Department of Environmental Protection, Division of Water Resources, prior to the approval of any permit for the alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- f. The city engineer shall require and administer the performance bonds posted in accordance with subsection 9-44(c)(4) of this article.

(2) *Construction stage:*

- a. The city engineer shall review all data submitted pursuant to subsection 9-44(c) and record the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with subsection 9-45(c)(1)a.
- b. When floodproofing is utilized for a particular nonresidential structure the city engineer shall obtain and record the elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, and the elevation certification from a registered professional engineer or architect, in accordance with subsection 9-45(c)(1)b.(ii).
- c. The city engineer shall notify the permit holder and the chief building inspector if deficiencies in the lowest floor elevations and/or floodproofing are identified and shall order the permit holder to correct the deficiencies prior to further progressive work being permitted to proceed.

(3) *Miscellaneous duties and responsibilities:*

- a. In instances where base flood elevation and/or floodway data is not otherwise available, the city engineer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other sources and determine and verify the base flood elevation for the flood hazard area, in order to administer subsections 9-45(c)(1), (2), (3) and section 9-46.

- b. The city engineer shall notify the regional planning agency and any affected municipality at least thirty-five (35) days prior to the public hearing if any change of regulation or use of a flood zone will affect an area within five hundred (500) feet of another municipality.
  - c. The city engineer shall maintain all records pertaining to the provisions of this article.
  - d. The city engineer shall be responsible for taking enforcement actions as appropriate, pursuant to the guidelines of section 9-49.
- (4) *Subdivision of land.* The city plan commission is responsible for the review and approval of all subdivision or resubdivisions of land and for the enforcement of the subdivision regulations of the City of New Britain. The director of Municipal Development shall require that all subdivisions which involve special flood hazard areas provide such information and professional certifications, as required to ensure that the provisions of sections 9-45 and 9-46 are met.

(Ord. of 1-95; Ord. of 2-4-98; No. 26824-1, 2-27-02)

#### **Sec. 9-45. Provisions for flood hazard reduction.**

- (a) *General standards.* In all special flood hazard areas, the following provisions are required:
- (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - (2) New construction and substantial improvements shall be constructed with materials resistant to flood damage;
  - (3) New construction or substantial improvements shall be constructed using methods and practices that minimize flood damage;
  - (4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  - (5) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
  - (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the system into floodwaters;
  - (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
  - (8) In any portion of a watercourse which is altered or relocated the flood-carrying capacity shall be maintained;
  - (9) Accessory structures shall be subject to all the standards in subsections (a), (b) and such standards of subsection (c) as deemed necessary by the city engineer. For the purpose of determining "substantial improvement" the value of each

accessory building shall be considered individually;

- (10) Manufactured homes shall be prohibited in all special flood hazard areas;
- (11) Parking or storage of recreational vehicles shall be prohibited in all special flood hazard areas;
- (12) A structure already in compliance with the provisions of this article shall not be made noncompliant by any alteration, repair, reconstruction or improvement to the structure.

(b) *General standards for streams without established base flood elevations, floodways and/or mapping:*

- (1) The city engineer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to subsection 9-44(d)(3)a. of this article, as criteria for requiring that new construction, substantial improvements, or other development in a special flood hazard area on the community's FIRM meet the standards in subsection (c) and section 9-46.
- (2) Base flood elevation data shall be provided with any application for activity in a special flood hazard area.
- (3) In special flood hazard areas where base flood elevations have been determined, but before a floodway is designated, no new construction, substantial improvement, or other development (including fill) which will increase base flood elevations more than one foot at any point along the watercourse shall be permitted. All anticipated development within a special flood hazard area is to be considered cumulatively with the proposed development in estimating the impact of the action on the base flood elevation.
- (4) The city engineer may request floodway data of any applicant for activities within watercourses without FEMA-published floodways. When such data is provided by an applicant or when additional data becomes available allowing the establishment of floodways along watercourses on which no floodways are currently delineated, new floodways shall be adopted. Then development affecting such floodways shall be regulated on the principle that the floodway must be able to convey the waters of the base flood without increasing the water surface elevation more than one foot at any point along the watercourse.
- (5) The city engineer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source as criteria of requiring that new construction, substantial improvements or other development in any area of potential demonstrable or historic flooding within New Britain meet the standards of subsection (c).

(c) *Specific standards:*

- (1) *Construction standards.* In all special flood hazard areas A1-30, AH, and AO, where base flood elevation data has been provided, as set forth in subsections 9-43(b), 9-44(d)(2), 9-45(b)(5), the following provisions are required:
  - a. *Residential construction:* New construction or substantial improvement of any residential structure shall have the lowest floor, including basement,

elevated at least two (2) feet above the base flood elevation.

b. *Nonresidential construction:*

- (i) New construction or substantial improvement of any commercial, industrial, or nonresidential structure shall have the lowest floor, including basement, elevated at least to two (2) feet above the level of the base flood elevation.
- (ii) Nonresidential structures may be floodproofed in lieu of being elevated, provided that, together with all attendant utilities and sanitary facilities, the areas of the structure below the required elevation are watertight, with walls substantially impermeable to the passage of water, and provided that such structures are composed of structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall review and/or develop structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with acceptable standards of practice for meeting the provisions of this subsection. Such certification shall be provided to the city engineer.
- (iii) On-site drainage for all proposed structures in zones AO and AH located on slopes shall provide adequate drainage paths to guide floodwaters around and away from such structures.

(2) *Fully enclosed areas below base flood elevation.* New construction or substantial improvements of buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall have at least one side at or above grade and shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

- a. Designs for complying with this requirement must be certified by a registered professional engineer or architect to meet the following minimum criteria:
  - (i) Provide a minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  - (ii) The bottom of all openings shall be no higher than one foot above grade; and
  - (iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- b. Electrical, plumbing, and other utility connections are prohibited below the base flood elevation.
- c. Use of the enclosed area shall be restricted to the parking of vehicles or limited storage of maintenance equipment used solely in connection with

the premises or entry to the living area via stairway or elevator.

- (3) *Floodways.* Located within special flood hazard areas established in subsection 9-43(b) are areas designated as floodways on the community's flood boundary and floodway map. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris and potential projectiles, and have erosion potential, the following provisions shall apply:
- a. All encroachments are prohibited including fill, new construction, substantial improvements and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge;
  - b. Fences are prohibited in the floodway unless aligned in the direction of the flow and constructed of an open design;
  - c. A permit may be issued which allows encroachments resulting in increases in base flood elevations, provided the community first obtains a conditional floodway revision by meeting the requirements of C.F.R. 44, chapter 1, subsection 65.12.

(Ord. of 1-95; Ord. of 2-4-98; No. 26824-1, 2-27-02)

#### **Sec. 9-46. Design standards for subdivision proposals.**

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (d) Base flood elevation and floodway data shall be provided for all subdivision proposals and other proposed developments for which any portion of is located within a special flood hazard area.

(Ord. of 1-95; Ord. of 2-4-98; No. 26824-1, 2-27-02)

#### **Sec. 9-47. Variance procedures.**

- (a) *Establishment of variance process:*
  - (1) The flood and erosion control board, as established by the City of New Britain, shall hear and decide appeals and requests for variance from the requirements of this article.
  - (2) The flood and erosion control board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the city engineer in the enforcement or administration of this article.
  - (3) Any person aggrieved by the decision of the flood and erosion control board or any person owning land which abuts or is within a radius of one hundred (100) feet of the land in question may appeal within fifteen (15) days after such



decision to the Superior Court for the Judicial District of New Britain, as provided in section 8-8 of the General Statutes.

- (4) Flood level increase prohibition. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(b) *Specific situation variances:*

- (1) *Buildings on a historic register.* Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places or any locally adopted historic district without regard to the procedures set forth in the remainder of this section, except for subsection (c)(3), and provided the proposed reconstruction, rehabilitation, or restoration result in the structure maintaining its historical character.
- (2) *Pre-existing lots.* Variances may be issued for new construction and substantial improvements to be erected on any lot contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided all standards of subsection (c)(3) are met.
- (3) *Functionally dependent uses.* Variances may be issued for new construction and substantial improvement and other development necessary for the conduct of a functionally dependent use provided the structure or other development is protected by methods that minimize flood damage, creates no additional threat to public safety and meets the requirements of subsection (c)(3)a. through f. of this article.

(c) *Considerations for granting of variances:*

- (1) In passing upon such applications, the flood and erosion control board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article; and
  - a. The danger that materials may be swept onto other lands to the injury of others;
  - b. The danger to life and property due to flooding or erosion damage;
  - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - d. The importance of the services provided by the proposed facility to the community;
  - e. The necessity of the facility to waterfront location, in the case of a functionally dependent facility;
  - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - g. The compatibility of the proposed use with existing and anticipated development;
  - h. The relationship of proposed use to the Master Plan, Zoning Ordinance

and floodplain management program for that area;

- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- k. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(2) *Additional conditions and safeguards.* Upon consideration of the factors listed above, and the purposes of this article, the flood and erosion control board may attach such conditions and safeguards to the granting of variances as it deems necessary to further the purposes of this article.

(3) *General standards for the issuance of variances:*

- a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and in the instance of a historical building, a determination that the variance is the minimum necessary as not to destroy the historic character and design of the building and result in the loss of historic designation of the building.
- b. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances. Only hardships which are based on unusual physical characteristics of the property in question, characteristics which are not shared by adjacent properties, shall qualify to meet subsection (ii) above. Claims of hardship based on the structure, personal, or economic circumstances are not sufficient cause for the granting of a variance under this article.
- c. In situations in which a property is partially within a special flood hazard area and in which upland portions of the property may be safely and appropriately developed, except that they are subject to the front, rear, or side yard restrictions of the zoning ordinances, applicants shall not apply for a variance of the Flood Damage Prevention Ordinance until they have first applied for, and been denied a zoning variance for relief from the restrictions of the applicable zoning ordinances.
- d. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation up to amounts as high as

twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage.

- e. Any applicant to whom a variance is granted shall be required to post a performance bond in accordance with subsection 9-44(c)(4) of this article.
- f. The city engineer shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(Ord. of 1-95; Ord. of 2-4-98; No. 26824-1, 2-27-02)

#### **Sec. 9-48. Amendments.**

Amendments to this article shall be made according to the authority granted to the common council in the City Charter and by various ordinances governing actions of the common council.

(Ord. of 1-95; Ord. of 2-4-98)

#### **Sec. 9-49. Enforcement.**

- (a) Each floodplain management permit shall authorize, as a condition of approval, the city engineer or a designated agent to make regular inspections of the subject property. The city engineer or designated agents are also authorized to inspect any property in a special flood hazard area where it appears that violations of these regulations may be taking place.
- (b) If the city engineer finds that any person is undertaking any construction, substantial improvement, filling, or any other activity or maintaining a condition which in violation of these regulations, the city engineer shall:
  - (1) Issue a written order by certified mail, return receipt requested, to the subject property owner, ordering that the activity cease and ordering the property owner to either seek to obtain a floodplain management permit pursuant to subsection 9-44(c) prior to continuing with the activity or, if appropriate, ordering that all violations and/or obstructions be removed from the special flood hazard area immediately.
  - (2) Notify the chief building inspector and request that any building permit(s) in force be revoked or suspended and that a stop work order be issued.
  - (3) The city engineer may suspend or revoke a floodplain management permit if it is found that the applicant has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application including application plans. Prior to revoking any permit, the city engineer shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action.
  - (4) Failure to comply with any written order issued under this section shall be considered a violation of these regulations and is subject to the penalties described in section 9-50.

- (5) In the event violations or obstructions are not promptly removed from the special flood hazard area, the city engineer may cause such removal and remediation work to be performed utilizing bond money held in escrow pursuant to subsection 9-44(c)(4) of this article, or may direct the director of public works to cause such work to be done and to place a lien against the property.
- (c) Any person subjected to enforcement action pursuant to this article may appeal any requirement, decision, or determination of the city engineer to the flood and erosion control board, in accordance with subsection 9-47(a)(2) of the article. Such person shall provide such information as necessary including appropriate certifications from a registered professional engineer or architect in order to substantiate the claim that the requirement, decision, or determination of the city engineer was in error or unwarranted.
- (d) Nothing contained herein shall prevent the owner of a dwelling, commercial or industrial building existing at the time of the adoption of this article from repairing, replacing or restoring said building or the components thereof to substantially the same character and form as existed at the time of such adoption.

(Ord. of 1-95; Ord. of 2-4-98)

### **Sec. 9-50. Penalties for violations.**

Violations of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variances, shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall be subject to a fine of ninety-nine dollars (\$99.00) and to a further penalty of not less than ninety-nine dollars (\$99.00) for each and every day that such violation continues to exist. Nothing herein contained shall prevent the City of New Britain from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. of 1-95; Ord. of 2-4-98)

## **APPENDIX A**

### **SPECIAL FLOOD HAZARD AREA FLOOD INSURANCE RATE MAP DESIGNATIONS**

These flood hazard areas are subdivided into flood hazard zones (insurance risk rate zones) according to the following criteria:

*Zone A:* Special flood hazard areas inundated by the 100-year flood, determined by approximate methods; no base flood elevations are shown or flood hazard factors determined.

*Zone AH:* Special flood hazard areas inundated by types of 100-year shallow flooding where depths are between one and three (3) feet; base flood elevations are designated, but no flood hazard factors are determined.

*Zone A1-30:* Special flood hazard areas inundated by the 100-year flood, determined by detailed methods; base flood elevations are shown and zones subdivided according to flood hazard factors.

*Zone B:* Areas of moderate flood hazard.

Zone C: Areas of minimal flood hazard.

Zone D: Areas of undetermined but possible flood hazard.

Insurance rates and floodplain management measures will vary depending on the zone.

(Ord. of 2-4-98)

## **Chapter 10 FOOD AND FOOD ESTABLISHMENTS\***

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**\*Charter references:** Authority to regulate sale of meat, milk, vegetables, butter, margarine, produce or food of any kind, § 536; inspection of meat, food and milk, § 2135.

**Cross references:** Garbage, trash and refuse, Ch. 11; health, Ch. 12; licenses, permits and miscellaneous business regulations, Ch. 14.

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Art. I. In General, §§ 10-1--10-25

Art. II. Eating and Drinking Establishments, §§ 10-26--10-50

Div. 1. Generally, §§ 10-26--10-35

Div. 2. Licenses, §§ 10-36--10-50

Art. III. Self Service Food or Beverage Vending Machines, §§ 10-51--10-56

## **ARTICLE I. IN GENERAL**

### **Sec. 10-1. Inspection--Food dispensers.**

The board of health, by its duly authorized representatives, shall inspect all soda fountains, restaurants, hotels, meat or grocery stores or other places where produce or provisions for human consumption are sold or offered for sale at intervals established by regulations of the board of health within guidelines issued by the state board of health or at least once in three (3) months.

(Code 1970, § 11-7; Ord. of 6-74)

### **Sec. 10-2. Same--Food and drink; full and free access; examination and condemnation.**

- (a) *Inspections authorized.* The director of health, any sanitarian or any duly authorized representative of the board of health is hereby authorized to inspect, take samples of and examine any food, drink and other substances used or intended to be used for human consumption as often as may be necessary for the detection of unwholesomeness or adulteration.
- (b) *Free inspections required.* All dealers in food, their agents and all persons engaged in the transportation of food or drink shall upon request of any duly authorized representative of the board of health fully and freely permit any such inspection.
- (c) *Condemnation of unfit food.* The director of health, any sanitarian or any duly authorized representative of the board of health shall condemn, forbid the sale of and cause to be denatured when possible, or cause to be removed or destroyed any food or drink found,